

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

Petition of the Department of Fish and  
Game for Review of Order No. 74-12  
(NPDES No. CA0047953) of the California  
Regional Water Quality Control Board,  
Central Coast Region.

Order No. WQ 75-11

BY THE BOARD:

The Department of Fish and Game (petitioner) submitted a petition to the State Water Resources Control Board (State Board) on April 5, 1974, requesting review of Order No. 74-12 adopted by the California Regional Water Quality Control Board, Central Coast Region (Regional Board), on March 8, 1974. Order No. 74-12 prescribes waste discharge requirements for the City of Paso Robles, San Luis Obispo County.

STATEMENT OF FACTS

The City of Paso Robles, San Luis Obispo County, operates a wastewater treatment plant located at 34th and Paso Robles Street, Paso Robles, California. This treatment plant provides secondary treatment to domestic and industrial wastes, and discharges its effluent to the Salinas River, approximately one-half mile north of the State Highway 46 Bridge on the west bank of the Salinas River. The Salinas River is an intermittent freshwater stream with a twenty-eight years' average discharge of 85.4 cubic feet per second

B.5. Effective January 1, 1976, the discharge of and effluent in excess of the following limit is prohibited:

<u>Constituent</u>	<u>Units</u>	<u>Yearly Arithmetic Mean+</u>	<u>Instantaneous Maximum</u>
Total Dissolved Solids	mg/l	Water Supply 300	900
Sodium	mg/l	Water Supply 60	150
Total Nitrogen (as N)	mg/l	Water Supply 30	50
Sulfate	mg/l	Water Supply 50	250
Chloride	mg/l	Water Supply 70	250
Total Chromium	mg/l	0.05	0.2
Copper	mg/l	1.0	2.0
Cyanide	mg/l	0.2	1.0
Zinc	mg/l	5.0	8.0

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B.8. The discharge shall not contain harmful concentrations of substances which are toxic or otherwise detrimental to human, animal, plant, bird, fish or other aquatic life.

B.9. The discharge shall not have a dissolved oxygen concentration less than 1.0 mg/l.

#### CONTENTIONS AND FINDINGS

The contentions of petitioner and our findings relative thereto are as follows:

1. Contention. The effluent limitation for copper, cyanide and zinc are inadequate to protect the fish and wildlife resources of the Salinas River. The allowable concentrations of

these constituents can be acutely toxic to fish and aquatic life. Furthermore, the limits set are inconsistent with Effluent Limit B.8. and the Interim Water Quality Control Plan which prohibit the discharge of concentrations of substances which are toxic or otherwise detrimental to fish or other aquatic life.

Findings. There is insufficient evidence in the record from which we may judge the extent of the beneficial use of the Salinas River for fish and wildlife habitat. While the record reflects that there is some fishery to be protected, proper effluent limitations depend to some extent on the nature of the fishery, the time or times of year when such use occurs, flows in the river during critical periods, prior difficulties associated with the discharge, if any, and such other data as may be necessary to determine appropriate effluent limits, including, in this particular case, the probable duration of the discharge. Regardless of the probable duration of the discharge, the discharger should be required to institute an adequate source control policy which will limit, to the extent reasonably possible, the discharge of toxic pollutants.

Petitioner's contention that allowable concentrations of copper, cyanide and zinc may be harmful to fish and aquatic life is undoubtedly correct. The position of the Regional Board in adopting Order No. 74-12 with the concentration levels of copper, zinc, and cyanide which petitioner finds objectionable, was that Effluent Limit B.8 which prohibits discharges containing

harmful concentrations of substances toxic to human, animal, plant, bird, fish or other aquatic life would protect fish and aquatic life.

It is not good practice to set requirements which may be incompatible. There is no evidence in the record to show current concentrations of copper, cyanide and zinc in the discharge. Nor is there evidence to indicate that the discharger would be unable to meet limits which would protect fish and aquatic life. In fact, the discharger's application for waste discharge requirements indicates that the discharge does not contain copper, cyanide or zinc.

2. Contention. The Regional Board acted improperly in not including in Order No. 74-12 a receiving water limitation which would prohibit the discharge from depressing dissolved oxygen concentrations below 5.0 mg/l.

Findings. The Interim Water Quality Control Plan for the Central Coast Region provides that in waters used as fish habitat, dissolved oxygen concentrations shall be maintained at or above an average of 5.0 mg/l.

Order No. 74-12 does provide in Receiving Water Limitation C.3. that the discharge shall not cause a violation of any applicable water quality standard. The State Board notes that this limitation is sufficient to require compliance with the applicable water quality control plan regarding dissolved oxygen requirements. However, a statement of the precise limit for dissolved oxygen would make Order No. 74-12 clearer. We note that it would also be advisable to provide for monitoring of the receiving water to assure compliance with this explicit requirement.

## CONCLUSIONS

After review of the record, the State Board concludes the action of the Regional Board in adopting Order No. 74-12 was inappropriate and improper in that the evidence is insufficient to provide an adequate basis for the effluent limits questioned by petitioner.

We would like to point out that this inadequacy of the record may, in this instance, stem in part from petitioner's own delay in submitting comments to the Regional Board before adoption of Order No. 74-12. Had the Regional Board staff had adequate time to review and investigate petitioner's comments before the public hearing, this petition might not have been necessary.

The effluent limits for copper, cyanide and zinc and for dissolved oxygen may be toxic or detrimental to fish and aquatic life in the Salinas River. Upon rehearing the matter, the Regional Board should establish requirements which will ensure protection of the existing fishery, including the establishment of source control requirements which will limit the discharge of pollutants to the maximum extent reasonably possible.

NOW, THEREFORE, IT IS ORDERED that Order No. 74-12 is remanded to the Regional Board for rehearing and reconsideration of waste discharge requirements and for action consistent with the findings and conclusions of this order.

Dated: April 17, 1975

/s/ W. W. Adams

W. W. Adams, Chairman

/s/ W. Don Maughan

W. Don Maughan, Vice Chairman

/s/ Roy E. Dodson

Roy E. Dodson, Member

/s/ Mrs. Carl H. Auer

Mrs. Carl H. (Jean) Auer, Member

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(cfs) and zero flow for long periods. The flow in the Salinas River has been regulated by Santa Margarita Lake, approximately 35 miles upstream from the discharge, since 1941. Due to the intermittency of the receiving water, this discharge would constitute the major source of flow in the Salinas River during the low flow periods. The beneficial uses of the Salinas River in the Paso Robles area as listed in Order No. 74-12 include agricultural water supply, freshwater habitat, recreation, groundwater recharge, and esthetic enjoyment.

On January 14, 1974, the Regional Board transmitted a copy of proposed tentative waste discharge requirements for the City of Paso Robles to all interested parties and requested that written comments and recommendations be submitted to the Regional Board by February 18, 1974. The Regional Board indicated that unless comments were received by that date, it would be assumed that there were no objections to the proposed tentative permit.

Petitioner submitted its comments on March 5, 1974, and testified at the Regional Board hearing on March 8, 1974. On March 8, 1974, as indicated, the Regional Board adopted the waste discharge requirements for the City of Paso Robles.

Order No. 74-12 allows the discharger to discharge up to 2.2 million gallons of secondary treated domestic and industrial wastewater per day into the Salinas River until January 1, 1978, and prohibits the discharge thereafter. The Order also contains the following effluent limits: